

Delaware River Basin Commission

§ 401.43

the applicant's engineer and counsel, if any.

(c) *Number of copies.* Unless otherwise ordered by the Commission, two copies of the application and accompanying papers shall be filed. If any application is contested, the Commission may require additional copies of the application and all accompanying papers to be furnished by the applicant. In such cases, certified copies or photographic prints or reproductions may be used.

[39 FR 25474, July 11, 1974. Redesignated at 46 FR 25439, May 7, 1981]

§ 401.42 Preliminary action; informal conference; emergencies.

(a) Whenever the Executive Director shall deem necessary, or upon request of the applicant, an informal conference may be scheduled to explain, supplement or review an application.

(b) The appropriate agency of a signatory party shall perform a technical review for the Commission, in accordance with Administrative Agreement, of each project finally determined to have a substantial effect on the water resources of the basin; except that the Commission staff will perform the technical review:

(1) Whenever the agency of the signatory party is itself the sponsor, or

(2) Whenever the agency of the signatory party does not have the necessary regulatory jurisdiction, or

(3) Upon request of the agency of the signatory party; and

(4) As to those projects which are subject to an environmental assessment or environmental impact statement under these Rules of Practice and Procedure and the National Environmental Policy Act.

(c) Upon completion of its technical review, the agency of the signatory party shall, in accordance with Administrative Agreement, prepare and file with the Executive Director an action report with respect to the project. The Executive Director shall prepare a memorandum of comment stating his concurrence or nonconcurrence with the findings and recommendations of the action report. The report, memorandum, and a proposed docket decision with reference thereto shall be placed before the Commission by the Executive Director at its next regular

meeting. Whenever time permits, a copy of the proposed docket decision shall be furnished to the applicant, and the applicant shall be given an opportunity to comment thereon and to consent to the conditions stated therein, before action by the Commission. The Commission will act upon the project in accordance with Section 3.8 and Article 11 of the Compact (to the extent applicable).

(d) In the event of an emergency requiring immediate action to protect the public interest or to avoid substantial and irreparable injury to any private person or property, and the circumstances do not permit a review, hearing and determination in the regular course of the regulations in this part, the Executive Director with the approval of the chairman of the Commission may issue an emergency certificate authorizing an applicant to take such action as the Executive Director may deem necessary and proper in the circumstances, pending review, hearing and determination by the Commission as otherwise required in this part.

[39 FR 25474, July 11, 1974, as amended at 42 FR 15311, Mar. 21, 1977. Redesignated at 46 FR 25439, May 7, 1981]

§ 401.43 Hearings.

(a) The Executive Director may, and whenever any substantial objection is filed pursuant to this section shall, cause a hearing to be scheduled upon an application received under § 401.41. He may, and at the request of the applicant shall, cause a hearing to be scheduled as to any application referred under § 401.40. Notice of the intention of the Commission to act upon an application received pursuant to § 401.41, or upon a request for a hearing with regard to an application received pursuant to § 401.40, shall be published by the Executive Director in one or more newspapers of general circulation in the area affected, at least once a week for two successive weeks, which publications shall not be less than seven nor more than 21 days prior to the date on which action is proposed to be taken. Such notice shall direct any person objecting to the application to file his objection with the Commission not later than two days before the

scheduled date of action. If the Executive Director determines that any filed objection is substantial, he shall defer consideration by the Commission, furnish a copy of each such objection to the applicant, and schedule a hearing on the application to be held not less than ten nor more than 30 days after the last day for filing objections. Notice of the hearing shall be served forthwith by certified mail upon the applicant and each person filing a substantial objection. Proof of such publication and of service of notice shall be filed with the Commission on or before the date for which the hearing is scheduled.

(b) The application and supporting documents, maps and data, as filed or amended shall be open to inspection by any interested person prior to the hearing.

[39 FR 25474, July 11, 1974. Redesignated at 46 FR 25439, May 7, 1981]

§ 401.44 Objections.

Every objection filed pursuant to § 401.43 shall be in writing and shall particularly specify the ground thereof. Amendments to the objections may be permitted by the Commission. All objections and supporting documents shall be filed in duplicate in such form as the Executive Director may prescribe. No person may be heard in opposition to an application except on objections so filed. Such objections shall be heard and determined under the procedure prescribed by Subpart F, Hearings.

[39 FR 25474, July 11, 1974. Redesignated at 46 FR 25439, May 7, 1981]

§ 401.45 Limitation of approval.

Approval by the Commission under this part shall expire three years from the date of Commission action unless prior thereto the sponsor has expended substantial funds (in relation to the cost of the project) in reliance upon such approval. An approval may be extended or renewed by the Commission upon application.

[39 FR 25474, July 11, 1974. Redesignated at 46 FR 25439, May 7, 1981]

§ 401.46 Certificate of compliance.

The Executive Director, upon application duly made to him, and after appropriate inspection and such other proof as may be required, may certify to any applicant that the applicant has duly complied with the requirements of any action or determination by the Commission pursuant to this part. The Executive Director may make such certification whenever he finds and determines that there has been sufficient compliance to satisfy the purposes and objectives of the Commission's action or determination notwithstanding the existence of any technical variation or omission in the work done. All such certifications shall be reported to the Commission at its next meeting thereafter.

[39 FR 25474, July 11, 1974. Redesignated at 46 FR 25439, May 7, 1981]

Subpart D—Preparation and Processing of Environmental Impact Statements

§ 401.51 Scope.

(a) *Purpose.* The National Environmental Policy Act of 1969 implemented by Executive Order 11514, mandates that all Federal agencies, to the fullest extent possible, direct their policies, plans and programs so as to meet national environmental goals. Section 105 of the Act provides that "The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies." Section 102(2)(C) of the Act and the Council on Environmental Quality's Guidelines of April 23, 1971, (36 FR 7724) require that all Federal agencies prepare environmental statements on all major Federal actions significantly affecting the quality of the human environment. The objective of the Act is to build into the agency decision-making process, beginning at the earliest possible point, an appropriate and careful consideration of the environmental aspects of proposed actions and to assist agencies in implementing the policies as well as the letter of the Act.

(b) *Policy.* The Delaware River Basin Commission will, in consultation with other appropriate Federal, State and